

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
BECKLEY**

**KNOWLEDGE NEVELS,**

**Petitioner,**

**v.**

**Case No. 5:15-cv-03186**

**JOE COAKLEY, Warden,  
FCI Beckley,**

**Respondent.**

**PROPOSED FINDINGS AND RECOMMENDATION**

Pending before the court is the petitioner's Application Under 28 U.S.C. § 2241 for a Writ of Habeas Corpus by a Person in State or Federal Custody (ECF No. 1) and the petitioner's Motion to Expedite Service (ECF No. 5). This matter is assigned to the Honorable Irene C. Berger, United States District Judge and, by Standing Order, it is referred to the undersigned United States Magistrate Judge for submission of proposed findings and a recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B).

**FACTUAL BACKGROUND AND PROCEDURAL HISTORY**

At the time he filed his petition, the petitioner was incarcerated at the Federal Correctional Institution in Beckley, West Virginia, serving a 245-month term of imprisonment imposed by the United States District Court for the Middle District of North Carolina, after being convicted on one count of Possession With Intent to Distribute Cocaine Base ("Crack"). (ECF No. 2 at 2). The Memorandum in support of the section 2241 petition states that the petitioner's sentence was subsequently reduced to 136 months of imprisonment and he was given a new projected release date of June 12, 2016, with eligibility for review for RRC placement as early as November of 2014 or January of

2015. (*Id.*) The instant petition, which was filed on March 16, 2015, asserts that the petitioner's unit team abused its discretion by not following the five factors set forth in 18 U.S.C. § 3621(b)(1) when considering the petitioner for RRC placement and supervision relocation in January of 2015, when he was 17-19 months from his projected release date. According to the Federal Bureau of Prison's inmate locator, [www.bop.gov](http://www.bop.gov), the petitioner was released from custody on November 2, 2015.

### **ANALYSIS**

The United States Constitution limits the jurisdiction of federal courts to actual cases or controversies that are present at all stages of review. U. S. Const., art. III, § 2; *Honig v. Doe*, 484 U.S. 305, 317 (1988); *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477-78 (1990). When a case or controversy no longer exists, the claim is said to be "moot." In the context of habeas corpus, a case is rendered moot when the inmate has been released from the custody being challenged, without collateral consequences, and the court can no longer remedy the inmate's grievance. *See, e.g., Spencer v. Kemna*, 523 U.S. 1, 7 (1998); *Alston v. Adams*, 178 Fed. Appx. 295, 2006 WL 1194751 (4<sup>th</sup> Cir. 2007); *Alvarez v. Conley*, 145 Fed. Appx. 428, 2005 WL 2500659 (4<sup>th</sup> Cir. 2005); *Smithhart v. Gutierrez*, 2007 WL 2897942 (N.D. W. Va. 2007).

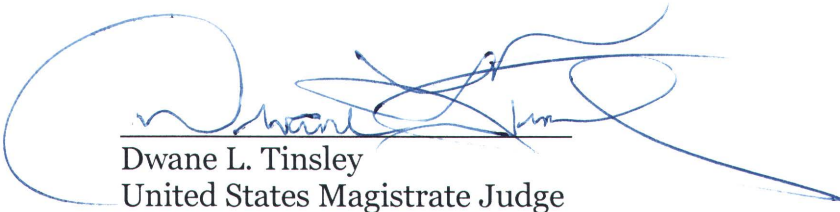
Accordingly, the undersigned proposes that the presiding District Judge **FIND** that the petitioner's section 2241 petition is now moot in light of his release from custody. Accordingly, it is respectfully **RECOMMENDED** that the presiding District Judge **DENY AS MOOT** both the petitioner's section 2241 petition (ECF No. 1) and his Motion for Expedited Service (ECF No. 5) and **DISMISS** this civil action from the docket of the court.

The parties are notified that this Proposed Findings and Recommendation is hereby **FILED**, and a copy will be submitted to the Honorable David A. Faber, Senior United States District Judge. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), Rules 6(d) and 72(b), Federal Rules of Civil Procedure, and Rules 1(b) and 8(b) of the Rules Governing Proceedings in the United States District Courts Under Section 2254 of Title 28, United States Code, the parties shall have fourteen days (filing of objections) and then three days (service/ mailing) from the date of filing this Proposed Findings and Recommendation within which to file with the Clerk of this Court, specific written objections, identifying the portions of the Proposed Findings and Recommendation to which objection is made, and the basis of such objection. Extension of this time period may be granted by the presiding District Judge for good cause shown.

Failure to file written objections as set forth above shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals. *Snyder v. Ridenour*, 889 F.2d 1363 (4th Cir. 1989); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984). Copies of such objections shall be served on the opposing party and Judge Faber.

The Clerk is directed to file this Proposed Findings and Recommendation and to mail a copy of the same to counsel of record.

January 22, 2016



Dwane L. Tinsley  
United States Magistrate Judge